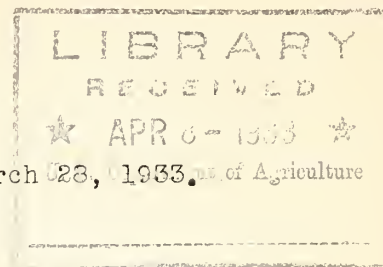


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UNITED STATES DEPARTMENT OF AGRICULTURE
Bureau of Biological Survey
Washington, D. C.Instructions relative to procedure
in renewing leases and other rental
agreements for the fiscal year 1934

Prompt attention should be given to these instructions, as the renewal of leases and other rental agreements has now become a complicated process, and requires considerable time. This is particularly true in the case of formal leases covering the present fiscal year to be renewed for the fiscal year 1934, since notice of such renewal must be given the lessor 30 days, in a few instances 60 days, before June 30, 1933. Please note carefully and comply, according to the kind of case involved, with the following instructions.

Fair Market Value Statements

Fortunately Section 322 of the Economy Act (see P.B.A. Circular No. 213) was amended by an Act approved March 3, 1933, by adding to said section the following: "Provided further, That the provisions of this section as applicable to rentals, shall apply only where the rental to be paid shall exceed \$2,000 per annum." As a consequence of this amendment there is only one bureau rental (lease with the R. Hardesty Manufacturing Co. covering rental of bait mixing station at Pocatello, Idaho) in effect during the present fiscal year for which a fair market value statement will have to be submitted before rental can be renewed for the fiscal year 1934.

The foregoing statement is not to be understood to apply to new rental of any building or part of building that may be executed for any remaining part of the present fiscal year. A new rental covering occupancy of a building or part of building during the present fiscal year must be supported by a fair market value statement in accordance with P. B. A. Circular No. 213 and Bureau Memorandum No. 1255. The amendment to Section 323 of the Economy Act above quoted applies only to new rentals or renewals of present rentals effective on or after July 1, 1933.

Requirements that apply to all kinds of rentals.

P. B. A. Circular No. 217.

Before a rental of any building or any part of a building, payable from bureau appropriations, is undertaken or renewed the employee in charge of bureau activity requiring the space must comply with P.B.A. Circular No. 217, that is, such employee must first apply to the Federal Business Men's Association, or if there is no such association, then to the Custodian of the Federal building, of the city or town where space is needed, for assignment of required space in Federally owned or already rented building. If the required space is not available for assignment to the bureau in any Federally owned or already rented building, bureau employee should obtain from the Federal Business Men's Association, or, if there is no such association, from the Custodian of Federal building, a

certificate to that effect. If there is neither Federal Business Men's Association nor Custodian of Federal building in the city or town where space in a building is needed, the employee in charge of the bureau activity requiring such space should make his own certificate to the effect, if true in fact, that there is no space in a Federally owned or already rented building available for the bureau's use.

These instructions apply to rentals, or renewal of rentals, of all kinds involving buildings or parts of buildings, including unassigned space in public garage, located in cities or towns. Therefore, no matter how recently, in connection with a rental for the present fiscal year, you may have obtained a certificate as required by P. B. A. Circular 217, no rental of a building or part of a building for the fiscal year 1934 may be undertaken, either by renewal of a current lease or other rental agreement, or the solicitation of bids, or otherwise, until the above instructions relative to compliance with P. B. A. Circular 217 have been followed, and certificate as required by said circular that the needed space is not available, beginning July 1, 1933, in Government-owned or already rented building has been obtained.

Should a new rental for any remaining part of the present fiscal year be proposed, a certificate to cover such part of the current fiscal year must be obtained, and if such rental is to be continued into the fiscal year 1934, a separate certificate to cover the period beginning July 1, 1934, must also be obtained, that is, a certificate must be obtained for each rental agreement, and a new certificate for each renewal or continuance of rental, and no certificate should cover two fiscal years, a separate certificate being obtained for each fiscal year or part thereof.

Each certificate as required by P. B. A. Circular 217 should be submitted to the bureau in triplicate, that is, one original signed by Federal Business Men's Association or Custodian of Federal building, or by bureau employee according to circumstances of case, and two copies. If the annual rental in any case is less than \$500, the original certificate will be filed by this office, with original lease, accepted bid or other rental agreement, in the General Accounting Office, one copy of the certificate will be furnished the department Real Estate Office, and one copy will be retained in the bureau. If annual rental involved in any case is \$500 or more, original certificate will be sent by this office to the Surveyor General of Real Estate when "clearance," that is, approval of the rental, is requested from that official, while the disposition of the two copies will be as indicated above.

Renewal where total rental to be paid for the fiscal year 1934 does not exceed \$50.

If it is proposed to continue into the fiscal year 1934 a rental in effect at the close of the present fiscal year, where the rate of rental per month is such that the annual rental for the entire fiscal year 1934 will not exceed \$50, it will not be necessary to solicit bids or to furnish statement showing that it is impracticable to solicit bids before such rental is renewed for the fiscal year 1934. Rental, without competition, in such a case is on the same basis as a purchase of supplies not

exceeding \$50 in amount made under the provisions of paragraph 66 of the Fiscal Regulations of the department of Agriculture.

Most rentals of this kind now in effect are covered by informal rental agreement (form 921-Bi), but in a few instances they may be covered by accepted bid. Heretofore, an informal rental agreement (form 921-Bi) once executed continued in effect year after year without any form of renewal being executed to carry a rental at the end of one fiscal year into the following year. This system proved, it is believed, satisfactory to all concerned, except the General Accounting Office. Because of the objections of that office, it has been decided to change the present system as indicated below:

Where a rental at such monthly rate that the annual rental does not exceed \$50 per month is in effect under informal rental agreement Bi-921 at the close of the present fiscal year, and it is desired to renew such rental on the same terms for the fiscal year 1934, proceed as follows:

1. Obtain certificate as required by P. B. A. Circular No. 217 (see above).

2. Execute on or before May 31, 1933, a new rental agreement on form Bi-921, identical in terms with agreement in effect for the present fiscal year, except that date of the new agreement at the top of the form and the date of your acceptance in the lower left hand corner of the form will be May 31, 1933, or a date prior thereto, and the date of the beginning of the rental in the body of the agreement will read "beginning the first day of the month of July, 1933." At the top of form Bi-921, opposite the date should appear the words: "Renewal for fiscal year 1934."

3. Prepare one original and four carbons of each form Bi-921 hereafter executed, sending the original and two copies to this office; delivering one copy to the lessor, and retaining the fourth copy for your files. This paragraph applies not only to renewals of existing rentals but to all informal rental agreements (form Bi-921) that may be executed in the future.

If, in any instance, a rental at an annual rate not in excess of \$50 is in effect at the close of the present fiscal year under an accepted bid and it is desired to continue the rental into the fiscal year 1934, merely execute, prior to July 1, 1933, effective beginning July 1, 1933, an informal agreement on form Bi-921 covering such rental, no reference being made on Bi-921 to the accepted bid under which the premises were previously rented, as such form is in no sense a renewal of the accepted bid, but is an entirely new agreement.

While competition is not required before entering into or renewing an informal rental agreement where the rate of rental per month is such that the annual rental does not exceed \$50, each employee concerned in a case of this kind should nevertheless, by inquiry and investigation assure himself that he is getting or continuing rental of reasonably suitable premises at the lowest rate of rental obtainable. A rental of the kind under discussion should not be renewed for the fiscal year 1934 simply

because an agreement is in effect for the present fiscal year and the easiest way is to let it ride. If a rental of this kind is now in effect and the lessor is willing to accept, beginning July 1, 1933, a lower rental than that now being paid, a new rental agreement (form Bi-921) at the reduced rate should be executed effective July 1, 1933 (this will not be a renewal of the current agreement on account of the difference in rent). If suitable premises, suitably located to serve employee's requirements other than those being rented during the present fiscal year can be obtained for the fiscal year 1934 at a lower rate of rental than is being paid under existing agreement, and the present lessor will not reduce the rate of rental asked by him to such lower rental, the present agreement should be terminated as of June 30, 1933, by giving written notice on or before May 31, 1933, of intention so to vacate, and a new agreement for the premises at the lower rate of rental executed effective July 1, 1933, provided, of course, the cost and disruption of service incident to moving does not offset the saving in rent.

Beside the rentals above discussed where the rate per month is such that the annual rate of rental does not exceed \$50, there are two additional classes of rental where it may not be necessary to solicit bids, or submit exigency statement justifying absence of competition before executing a rental agreement or a renewal thereof. One of these classes of rental is where, though the rate of rental per month is such that the annual rental were it continued for a full year would exceed \$50, the rental is for a definite period of one or more months and the rate of rental per month is such that the total rental for such definite period will not exceed \$50. For example, a rental at \$25 per month for the definite period of two months, or a rental at \$10 per month for a definite period not exceeding five months. If it is desired to continue for a definite period into the fiscal year 1934, a rental in effect at the end of the present fiscal year, whether under formal lease, informal rental agreement, or accepted bid, the rate of rental being such that the total rental for the definite period in the fiscal year 1934 will not exceed \$50, merely execute prior to July 1, 1933, an informal rental agreement (form Bi-921) showing such rental as beginning July 1, 1933, and ending on whatever date the definite period will terminate. To illustrate: suppose a rental at \$10 per month is in effect at the close of the present fiscal year and it is desired to continue it into the fiscal year 1934 for the definite period of five months. Form Bi-921 should be executed on or before June 30, 1933, but this form must show definite period of rental "beginning the first day of July, 1933, and ending November 30, 1933, the underlined words to be interlined in the printed form, but no change otherwise to be made in such form. In a case of this kind it is highly important that, so far as can be foreseen, the premises will not be required for a longer time in the fiscal year 1934 than the definite period stated in rental agreement. Should it develop that they are not needed for so long a period, rental may be terminated at an earlier date under the termination clause of form Bi-921.

The other class of rental where the monthly rate of rental is such that the annual rental were it continued for the entire year would exceed \$50 but competition may not be required before executing rental agreement is just the reverse of the class above discussed. It involves the class

where a rental in effect at the close of the present year must be continued into the fiscal year 1934, but the period in the fiscal year 1934 that the rental will be required is so indefinite that there is no basis on which bids can be solicited, that is, it cannot be foreseen how long the premises will be required. For example, suppose it is known a new Federal building in which quarters have been assigned a bureau activity will be ready for occupancy early in the fiscal year 1934, but the exact date when such quarters will be ready for occupancy can not be ascertained and in the meantime rented quarters will have to be continued to be occupied--in such a case it might, on account of indefiniteness of period rented quarters will be required, be entirely impracticable to solicit bids, and the only course to follow would be to execute a month to month rental agreement (form Bi-921) effective July 1, 1933, such agreement to contain the provision, if lessor agrees, that premises may be vacated by the Government at any time, rental to be due only for the actual period of occupancy. However, so much depends on monthly rate of rental in such cases, as well as being able to establish convincing uncertainty of period of occupancy, that each case of the kind should be presented, with all facts, to this office for advice as to action to be taken.

Renewal where annual rental exceeds \$50.

The general rule now is that before any rental of building or part of building involving a rate per year in excess of \$50 can be undertaken or renewed, bids, if practicable, must be solicited. Reference is made to P. R. A. Circulars No. 196 and No. 201. Except as hereinbefore indicated, therefore, before steps can be taken to renew for the fiscal year 1934 a rental under formal lease or informal rental agreement involving a rate in excess of \$50 per year, competition must be obtained or the impracticability of obtaining such competition clearly established. Procedure in such cases should be as follows:

A If rental is covered by formal lease containing option under which lease may be renewed for fiscal year 1934 and such renewal is desired and justified.

It is supposed that in most, if not all, instances where premises are held during the present fiscal year under formal lease providing option to renew for the fiscal year 1934, that it will be desirable to continue the rental of the same premises for the fiscal year 1934, by exercising option if such action can be justified. The first step to be taken in a case of this kind is not to make a formal solicitation of bids, but make a canvass, that is, an investigation and examination of suitable premises to rent, getting (preferably in writing) from the owners of such premises or from the real estate agents representing the premises, a quotation of rental prices on such premises. At the same time advise the present lessor of the canvass being conducted, giving him an opportunity to quote, if he desires, a lower rate of rental for the fiscal year 1934 than that that applies to the current year.

If the present lessor will not reduce rent for the fiscal year 1934, and none of the quotations of prices obtained from other real estate

agents or owners of suitable premises is lower than the rental being paid under lease for the present fiscal year, recommend renewal of such lease for the fiscal year 1934, transmitting to this office with your recommendation a memorandum in triplicate (one original and two copies) setting forth the result of your canvass, giving names of real estate agents, etc., asked to give rental quotations, the names of those who submitted prices, the premises offered and the price quoted thereon by each. In describing premises offered by each real estate agent or owner, indicate name (if any) and address of building in which premises are located, the number of rooms and the total square foot area (approximate) of each space or suite offered, with the price stated per square foot per year. In order that there may be a basis for comparing prices, it is highly important that each quotation of price be stated on the approximate number of square feet of space offered with the rate of rental per square foot per year. Any lease in effect during the present fiscal year must necessarily cover the rental of a certain number of square feet of space which is required to serve the purpose of the rental, and quotations of prices on other premises should, of course, be requested on the same number of square feet so that there may be a true comparison of prices.

In a case of the kind being discussed, your recommendation for renewal of present lease together with memorandum as above indicated must be accompanied by certificate, in triplicate, of the local Federal Business Association that the space required for the fiscal year 1934 is not available in any Federally owned or already rented building (see above under "Requirements that apply to all kinds of rentals"). Prompt action is urged in the matter as all papers have to be referred to the Real Estate Office of the department for approval, and if the annual rental involved is \$500 or more, clearance (approval) of the renewal will have to be obtained from the Surveyor General of Real Estate; after which the Renewal Notice as prepared by the office of the Solicitor of the department will have to be mailed to the lessor 30 or 60 days, according to the terms of the present lease, before June 30, 1933.

B Where option to renew may not be exercised but new lease must be executed with present lessor because of reduced rental offered by him for fiscal year 1934.

If as the result of the canvass made as instructed under section A above, the present lessor offers the same premises as are now under lease at a reduced rental for 1934 and no price obtained from any other real estate agent or owner on suitable premises of required area is lower than such reduced rental offered by the present lessor, the present lease cannot be renewed, on account of change in rate of rental, but a new lease with such lessor will have to be executed for the fiscal year 1934. Procedure otherwise should be as stated in A above, that is, memorandum in triplicate showing prices, etc., obtained, including the reduced rental offered by present lessor, should be submitted to this office, together with certificate, in triplicate, of local Federal business association. In addition, however, in letter transmitting memorandum, statement should be made as to whether reduced price applies only to fiscal year 1934, or whether lessor consents to an option to renew lease on the same terms beyond 1935 and, if so, for how many years. If no statement is made regarding option, it will be understood that new lease is to cover fiscal year 1934 only.

C Renewal where rental for present fiscal year, though exceeding \$50 per year, is held under informal rental agreement (form Bi-921)

In a case of this kind, proceed as directed in section A above, that is, canvass the real estate dealers and owners and obtain prices on suitable premises of required area, etc. Be sure to give the present lessor a chance to offer premises now occupied at reduced rental for 1934. If present lessor does not offer a lower rental for the fiscal year 1934 and no lower price for suitable premises is obtained from any one else, send in to this office memorandum in triplicate giving details of canvass made (follow instructions for making canvass and preparing memorandum given under A above) accompanied by certificate in triplicate of local Federal business association. As an informal rental agreement (form Bi-921), however, cannot be renewed by issuing a "Renewal Notice," a new form Bi-921, covering rental beginning July 1, 1933, will have to be executed. In preparing this new agreement follow instructions given above (see instructions numbered "2" and "3" under "Renewal where total rental to be paid for the fiscal year 1934 does not exceed \$50") except that, note particularly, informal rental agreement in a case of this kind should not be accepted in the field, but proposed agreement, effective July 1, 1933, should be executed a sufficient length of time before May 31, 1933, to permit its being forwarded, together with memorandum and certificate called for above, to this office for consideration, and to report back, by May 31, 1933, to the field office concerned the action taken here.

If present lessor offers a reduced rental for fiscal year 1934 and such reduced rental is as low as, or lower than, any other offer received from any one else follow the instructions just given by having a new form Bi-921, effective July 1, 1933 (such form should not, however, be marked "Renewal for fiscal year 1934") executed, and forward it unaccepted with memorandum and certificate to this office so that it may be considered here and field office advised of action taken by May 31, 1933.

D Where formal solicitation of bids is required.

Formal solicitation of bids is required, when the annual rate of rental exceeds \$50, in the following cases:

1. Where a lease, with option to renew, is in effect for the present fiscal year, and the canvass of real estate owners and agents made as instructed in "A" above results in suitable premises of adequate square foot area being offered at a lower price than is being paid under the present lease or than reduced rental on premises now occupied offered for fiscal year 1934 by present lessor.
2. Where informal rental agreement is in effect for the present fiscal year, and canvass made as instructed in "A" and "C" results in lower price on suitable premises being quoted for fiscal year 1934 by some one other than present lessor.
3. Where formal lease in effect for the present fiscal year contains no option for renewal, or where premises are held for the present fiscal year under an accepted bid only which, of course, terminates on June 30, 1933.

4. Where a lease providing option for renewal is in effect, but it is not desired to exercise option because smaller, larger or otherwise different premises are required, or where no premises have hitherto been rented and a rental becomes necessary.

Formal solicitation of bids.

Where it is necessary to make a formal solicitation of bids on a rental Standard Form No. 33 may be used, but it is simpler and more satisfactory to use regular letterhead paper of the office making the solicitation. On the general subject of procedure in inviting bids see Bureau Memorandum Bi-1072, of April 9, 1930. Three or more real estate owners or dealers, including, of course, present lessor, if any, should be invited to bid. A public notice of invitation may also be posted in Post Office, other Federal building or other public place. If there are not at least three real estate owners and dealers from whom bids can be invited, public notice should, if practicable, be posted. Letters (or form 33) inviting bids in any case should be identical in specifications of premises required and should indicate:

1. Acceptable area of city in which premises must be located, as for example, "located in the business area of the city of _____."
2. Minimum square foot area of premises, number of rooms, etc., required; purpose for which required, and general features; as, for example: "not less than _____ square feet of space, divided into two rooms, one approximately _____ feet by _____ feet; the other _____ feet by _____ feet; for use as office; building must be a modern office building, and both rooms must be outside rooms, with adequate windows to afford ample natural light and air."
3. Services to be included in rental, such as heat, electric light, water, elevator and janitor service, etc.
4. Period of rental; as for example, one year beginning July 1, 1933, and ending June 30, 1934.
5. Rate of rental to be stated on basis of rate per month; and payment of rent to be made monthly at the end of each month; or rate of rental may be stated on basis of rate per square foot per year for space offered (which makes bids easier to compare); rent to be paid in equal monthly installments at the end of each month.
6. Successful bidder (if such is the case) to be required to execute formal lease; bidder to indicate whether option to renew is to be included in lease.
7. Bidder to indicate in his bid the address of building, with name, if any, in which premises are offered; the total square foot area of space offered, the number of rooms into which it is, or will be divided, and the dimensions of such rooms, their location in building, etc.

There follows a form which may be used as a sample in soliciting bids on rentals. This form must, of course, be adapted to suit each particular solicitation.

"Bid is invited, to be received by the undersigned not later than 2 p.m. May 12, 1933, when all bids received will be publicly opened, on the rental of premises meeting specifications below stated:

"Premises must be located in modern effice building centrally situated in business section of Denver, Colorado. Premises must consist of not less than 400 square feet, divided into two rooms of approximately 250 square feet and 150 square feet, respectively. Space is required for use as office, and both rooms must be outside rooms with adequate windows to afford ample natural light and air.

"Price bid to cever the furnishing of heat, electric light, water, janitor and elevator service.

"Rental to be for one year, beginning July 1, 1933, and ending June 30, 1934.

"Bid to be stated on basis of rental per month. Rent to be paid monthly by the Government at the end of each month. (Or, bid to be stated on the basis of rate per year per square foot of space offered; rent to be paid by the Government in equal monthly installments at the end of each month).

"Successful bidder will be required to execute a formal lease embodying terms of accepted bid. Each bidder will indicate whether, should his bid be accepted, he will give to the Government to be included in the terms of lease to be executed, an option to renew such lease, and, if so, the number of years subsequent to June 30, 1934, for which option of renewal will be granted.

"If bid is submitted in response to this invitation, bidder will indicate, in addition to price bid, the address of building, with name, if any, in which space is offered, the total area of such space, the number and area of rooms involved, and the location of such rooms."

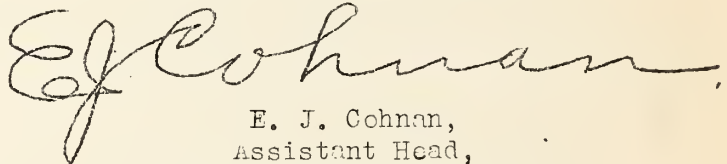
All bids received in any case should be promptly transmitted to this office with recommendation for acceptance together with statement of those invited to bid who did not respond and indicating whether or not public notice was posted. In making recommendation, if a bid that is not the lowest in price is recommended for acceptance, give specifically the respect in which the premises offered in lower bid or bids fail to meet specifications. Note particularly in this connection, that if a lower bid, or bids, is received on other premises than those being occupied during the present fiscal year, the expense and disruption of service incident to moving to new quarters are for consideration in determining whether the difference between the bid received on present premises and lower bid or bids is not offset by such expense of moving, etc. In a case of this kind, be sure to give estimated cost of meving.

Where annual rental exceeds \$50 and it is not practicable to solicit bids.

In a city or town of any size it will be difficult to justify not soliciting bids by showing that competition is not practicable. The better way, is to invite bids, including posting of public notice, even though satisfied that only one bid, and that from the present lessor, will be received. The result will speak for itself.

However, there are undoubtedly cases where the soliciting of bids would be a futile gesture; for instance, where an experimental project has been established, as in the case of premises rented for the Fur Animal Experiment Station, or where headquarters of a refuge have been established at the only place practicable for the administration of the refuge, as in the case of premises rented for use as headquarters at Lake Malheur Bird Refuge--the solicitation of bids in such, or similar cases, would serve no useful purpose.

The foregoing instructions have been given with considerable detail with the hope that they may be of assistance to field men in negotiating or renewing rentals. However, if further information is required as to procedure in any case, it will be gladly furnished upon request.

A handwritten signature in cursive script, reading "E. J. Cohnan". The signature is written in dark ink and is positioned above the typed name and title.

E. J. Cohnan,
Assistant Head,
Division of Administration.